

Introduced by Senator Simitian

February 22, 2005

An act to add Article 4 (commencing with Section 1798.9) to Chapter 1 of Title 1.8 of Part 4 of Division 3 of the Civil Code, relating to privacy.

LEGISLATIVE COUNSEL'S DIGEST

SB 682, as introduced, Simitian. Identity Information Protection Act of 2005.

Existing law, the Information Practices Act of 1977, regulates the collection and disclosure of personal information regarding individuals by state agencies, except as specified. The intentional disclosure of medical, psychiatric, or psychological information in violation of the disclosure provisions of the act is punishable as a misdemeanor if the wrongful disclosure results in economic loss or personal injury to the individual to whom the information pertains.

This bill would enact the Identity Information Protection Act of 2005. The act would prohibit identity documents created, mandated, or issued by various public entities from containing a contactless integrated circuit or other device that can broadcast personal information or enable personal information to be scanned remotely. Because the intentional disclosure of information in violation of the disclosure provisions of the Information Practices Act, which would include this act, is punishable as a misdemeanor if the wrongful disclosure results in economic loss or personal injury to the individual to whom the information pertains, this bill would create a new crime, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited as the
2 Identity Information Protection Act of 2005.

3 SEC. 2. The Legislature hereby finds and declares all of the
4 following:

5 (a) The right to privacy is a personal and fundamental right
6 protected by Section 1 of Article I of the California Constitution
7 and by the United States Constitution. All individuals have a
8 right of privacy in information pertaining to them.

9 (b) Easy access to the information found on drivers' licenses
10 and other similar identity documents facilitates the crime of
11 identity theft, a crime that is a major concern in California. More
12 than 39,000 Californians reported being victims of this crime in
13 2003.

14 (c) This state has previously recognized the importance of
15 protecting the confidentiality and privacy of an individual's
16 personal information contained in identity documents such as
17 drivers' licenses.

18 (d) The inclusion in identity documents of contactless
19 integrated circuits or other devices that broadcast data or enable
20 data to be scanned secretly and remotely will greatly magnify the
21 potential risk to individual privacy, safety, and economic
22 well-being that can occur from unauthorized interception and use
23 of personal information. The inclusion of those devices will also
24 make it possible for any person or entity with access to a reader
25 to engage in the secret tracking of Californians on an
26 unprecedented scale.

27 SEC. 3. Article 4 (commencing with Section 1798.9) is added
28 to Chapter 1 of Title 1.8 of Part 4 of Division 3 of the Civil Code,
29 to read:

Article 4. Identity Documents

1798.9. (a) For purposes of this article, the following definitions shall apply: “Contactless integrated circuit” means a data carrying unit, such as an integrated circuit or computer chip that can be read remotely.

(b) “Identity” means any name, number, or data transmission that may be used alone or in conjunction with any other information, to identify a specific individual.

(c) “Identity document” means any document that an individual uses to establish his or her identity that contains one or more items of personal information. Identity documents specifically include, but are not limited to, the following:

- (1) Driver’s licenses or identification cards.
- (2) Identification cards for employees or contractors.
- (3) Identification cards issued by educational institutions.
- (4) Health insurance or benefit cards.
- (5) Benefit cards issued in conjunction with any government-supported aid program.
- (6) Licenses, certificates, registration, or other means to engage in a business or profession regulated by the California Business and Professions Code.

(7) Library cards issued by any public library.

(d) “Personal information” includes any of the following: an individual’s name, address, telephone number, date of birth, race, religion, ethnicity, nationality, photograph, fingerprint or other biometric image of the individual, social security number, or any other unique personal identifier or number.

(e) “Remotely” means that no physical contact between the integrated circuit or device and a reader is necessary in order to transmit data.

1798.10. No identity document created, mandated, or issued by the state, county, or municipal government, or subdivision or agency thereof shall contain a contactless integrated circuit or other device that can broadcast personal information or enable personal information to be scanned remotely.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the
2 penalty for a crime or infraction, within the meaning of Section
3 17556 of the Government Code, or changes the definition of a
4 crime within the meaning of Section 6 of Article XIII B of the
5 California Constitution.

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